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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 451**

**The Crofting Community Right to Buy (Procedure,  
Ballots and Forms) (Scotland) Regulations 2020**

**PART 4**

**Application for reimbursement of ballot expenses**

**Application for reimbursement**

**12.**—(1) A crofting community body may apply to the Ministers for reimbursement of the expense of conducting a ballot in accordance with section 75(6) of the Act.

(2) An application under paragraph (1) may only be made on or after the date that the associated application was made under section 73(2) of the Act and must be made no later than the date determined in accordance with paragraph (3) or (4).

(3) If the crofting community body is refused consent to exercise a right to buy under section 73 of the Act, the date is the earlier of—

- (a) the day after the expiry of the time period specified in section 91(5) of the Act for lodging an appeal against the decision on an application under section 73 of the Act, if no appeal is lodged within that period,
- (b) the day on which the sheriff issues a decision in an appeal under section 91(7) of the Act, that the crofting community body is not given consent to exercise the right to buy under section 73 of the Act.

(4) If the crofting community body is given consent to exercise a right to buy under section 73 of the Act, the date is the earliest of—

- (a) the day on which the sheriff issues a decision in an appeal under section 91(1) of the Act, that the crofting community body is not given consent to exercise the right to buy under section 73 of the Act,
- (b) the expiry of the period specified in section 85(1) of the Act, but only if the crofting community body did not, within that period, notify the Scottish Ministers and, as the case may be—
  - (i) the owner of the land,
  - (ii) where the application is to buy a tenant's interest, the tenant, or
  - (iii) where the application is to buy sporting interests, the owner of the sporting interests, of its intention to proceed to buy the land or the tenant's interest or the sporting interests,
- (c) the date of notice of withdrawal of the application under section 85(2)(a) of the Act,
- (d) the date of notice of withdrawal of confirmation of intention to proceed under section 85(2)(b) of the Act,
- (e) the date on which the crofting community body's confirmation of intention to proceed made under section 85 of the Act is treated as withdrawn under section 87(5) of the Act, or

- (f) the date on which the transfer is completed under section 87 of the Act.

### **Information to be included in application for reimbursement**

**13.**—(1) An application under regulation 12 must include the following information—

- (a) the name of the crofting community body, as it appears in the body’s memorandum and articles of association (or as adopted by a resolution of its members), constitution or registered rules,
- (b) the crofting community body’s company number, charity number or registration number,
- (c) the crofting community body’s contact details, including a contact name, postal address, email address and telephone number,
- (d) the date on which the crofting community body made its application under section 73(2) of the Act,
- (e) the ballot deadline,
- (f) the question on which the vote was taken,
- (g) details of the crofting community body’s bank account into which the amount of any reimbursement is to be paid, and
- (h) a statement, in accordance with paragraph (2), setting out all costs that were incurred in conducting the ballot.

(2) For each cost the crofting community body must provide—

- (a) the date on which the cost was incurred,
- (b) a brief description of the goods or services to which the cost relates,
- (c) evidence that the cost was incurred in conducting the ballot, and
- (d) the date on which the goods or services to which the cost relates were provided.

(3) The crofting community body may include with its application any other information that it considers to be relevant.

### **Request for further information before making decision**

**14.**—(1) Within the period of 30 days beginning on the date on which the Scottish Ministers receive an application under regulation 12, they may request from the crofting community body any further information that the Scottish Ministers consider to be necessary for the purpose of making a decision under regulation 15.

(2) No later than the expiry of the period of 7 days beginning on the date on which the crofting community body receives a request under paragraph (1), it must respond by—

- (a) providing the requested information, or
- (b) explaining why the information cannot be provided.

### **Decision of the Scottish Ministers on application for reimbursement**

**15.**—(1) No later than the expiry of the period of 60 days beginning on the date on which the Scottish Ministers receive an application under regulation 12, they must—

- (a) calculate the amount to be reimbursed, if any, by—
  - (i) calculating the claimed expense of conducting the ballot in accordance with paragraphs (2) and (3), and
  - (ii) subtracting from that amount any expense that they consider not to have been reasonably incurred in the conduct of the ballot,

- (b) notify the crofting community body in writing of the amount calculated under sub-paragraph (a) and the reasons for any decisions made in the course of making that calculation, and
  - (c) pay to the crofting community body the amount calculated under sub-paragraph (a), if it is an amount greater than zero.
- (2) When calculating the expense of conducting the ballot, the Scottish Ministers must disregard any cost, or part thereof, identified in the application that they consider to be—
- (a) directly attributable to activities other than those specified in regulation 6, or
  - (b) incurred retrospectively.
- (3) For the purpose of paragraph (2)(b), an expense is incurred retrospectively if it is incurred after the provision of the goods or services to which it relates, where those goods or services were originally provided on a no-cost basis.

#### **Appeal against the Scottish Ministers' decision under regulation 15**

**16.**—(1) A crofting community body may appeal to the Lands Tribunal against a decision of the Scottish Ministers under regulation 15.

(2) An appeal under paragraph (1) must be lodged within the period of 28 days beginning on the date three days after the day on which the notice of the decision is sent to the crofting community body.

(3) The Lands Tribunal may, after making its own assessment in accordance with regulation 15 of the amount, if any, to be reimbursed, make an order requiring the Scottish Ministers to reimburse a specified amount of expense to the crofting community body.

(4) There is no right of appeal of a decision of the Lands Tribunal made under this regulation.